

Regular City Council Meeting
Monday, February 22, 2016
Bloomington Civic Plaza
1800 West Old Shakopee Road
Bloomington, Minnesota 55431-3027

- 1 **CALL TO ORDER - 7:00 PM** Mayor Winstead called the meeting to order at 7:00 p.m.
- Present: Councilmembers C. Abrams, J. Baloga, T. Busse, A. Carlson, D. Lowman, and J. Oleson.
- 2 **INTRODUCTORY**
- 2.1 **FLAG PRESENTATION - Boy Scout Troop 374** Troop 374 introduced themselves after leading the audience in the pledge of allegiance to the flag.
- 2.2 **Advisory Board of Health 2015 Annual Report and 2016 Work Plan and Schedule** Requested Action: Accept the Advisory Board of Health's 2015 Annual Report and approve the 2016 Work Plan and Meeting Schedule.
- Public Health Administrator Bonnie Paulson explained the Advisory Board of Health and reviewed via a powerpoint presentation. The Board's past Chair, David Drummond, reviewed the 2015 annual report and Cindy McKenzie, current Chair, shared the work plan for 2016 via powerpoint presentation.
- Motion by Councilmember Busse.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 2.3 **2015 PARC Report and 2016 PARC Work Plan** Requested Action: Approve of the Parks, Arts and Recreation Commission's 2015 Annual Report and 2016 Work Plan as presented.
- Parks and Recreation Manager Randy Quale introduced the item. Quale introduced Chairperson Lenny Schmitz to review the accomplishments of 2015 and the work plan for 2016. Schmitz recapped the 2015 PARC Annual Report via powerpoint presentation.
- Mayor Winstead asked about the possibility of the replacement of playground equipment in the city. City Manager Verbrugge said the long-range plan does need to be looked at to slot this in. The CIP recommendation is a good place to to focus to decide where the priorities are.
- Schmitz added that it's been 20-30 years since significant money has been invested into parks, and it's evident that work is needed.
- Councilmember Abrams asked for clarification of the public meetings on Dupont and Hampshire Hills neighborhood meetings. Schmitz said attendance was sparse but there were a handful of people, primarily supporters. Received great feedback from residents.
- Motion by Councilmember Abrams.
Seconded by Councilmember Baloga.
Motion carried 7-0.

3 **CONSENT BUSINESS**

- 3.1 2016 Local Public Health Services Agreement with Edina** Requested Action: Approve the 2016 Local Public Health Services Agreement with the City of Edina.
Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.2 Building Automation System for Bloomington Ice Garden - Approve Purchase** Requested Action: Award a new contract to Northern Air Corporation – NAC for a total not-to exceed amount of \$147,228.00 which represents a carryover from the prior contract in the amount of \$59,404.00 and additional work proposed in the amount of \$79,840.00 plus a \$7,984 contingency.
Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.3 Solid Waste and Recyclable Material Collection - Approve Extension** Requested Action: Approve the contract extension to Republic Services for solid waste and recyclable material collection services to extend the contract through October 31, 2016 with no increase to the cost for a total not-to-exceed amount of \$409,409.20.
Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.4 Active Places Demonstration Project Grant Application Adopt Resolution** Requested Action: Adopt resolution supporting the City's grant application for an Active Places demonstration project, a program grant funded by BlueCross BlueShield's Center for Prevention.

Councilmember Oleson explained the possibilities of Special Events – Phase I. Area of focus on the northeast portion of the city along with various parks. Mentioned that a lot of people can benefit from an income-based home improvement loan that was presented at the Bloomington Home Improvement fair on February 20th.

Councilmember Oleson said a new HRA developed loan called the Curbside Appeal Loan for projects up to \$10,000.

Motion by Councilmember Oleson.
Seconded by Councilmember Lowman.
Motion carried 7-0.
- 3.5 Great River Greening Agreement Approve** Requested Action: Approve the grant agreement with Great River Greening for natural resources restorations work on approximately 20 acres of City-owned parkland in the Minnesota River Valley.

Councilmember Oleson explained the overall goal is to get back to the kind of vegetation that was there by nature a long time ago.

Motion by Councilmember Oleson.
Seconded by Councilmember Lowman.
Motion carried 7-0.
- 3.6 MN Counties Computer Cooperative Amendment Ratification** Requested Action: Ratify Amendment Number 1 to the PH-Doc maintenance and support agreement.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.

- 3.7 GOPHER RUN Preliminary and Final Plat; 1700 East 88th Street**
- Requested Action: Approve the preliminary plat and adoption of a resolution granting approval of the final plat of GOPHER RUN located at 1700 East 88th Street is recommended subject to completion of the above conditions, receipt of title, necessary documents and deposits, and review of all documents by the City Attorney.
- Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.8 Meeting Minutes City Council - Approve**
- Requested Action:
Approve the February 1, 2016 Regular City Council meeting minutes as presented.
- Approve the November 30, 2015 Study Session City Council minutes as presented.
- Minutes from the January 25, 2016 Human Rights Commission interviews removed from tonight's agenda and will be submitted for approval at a future Council meeting.
- Minutes from December 4, 2015 (Joint City Council/Legislative Delegation) meeting removed from tonight's agenda and will be submitted for approval at a future Council meeting.
- Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.9 Amended Storm Sewer Easements**
- Requested Action: Adopt the resolution approving the amended easement agreements for Storm Sewer.
- Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.10 Davanni's Easement Agreement Adopt Resolution**
- Requested Action: Adopt the resolution approving the easement agreement with Davanni's Inc.
- Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.11 Quicklime for Water Treatment - Award Contract**
- Requested Action: Award a contract to Graymont (WI) LLC to furnish and deliver quicklime for use at the Bloomington Water Treatment Plant during 2016-2018 at a cost of \$164.35 per ton for a not-to-exceed annual contract amount of \$591,660.00.
- Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.12 2015 Year-End Encumbrance Rollover - Approve**
- Requested Action: Approve the rollover of outstanding 2015 encumbrances as listed, into the 2016 fiscal year with a reduction of the 2015 budget and an adjustment of the 2016 budget authorization by the same amounts.
- Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.

3.13 Contract with SRF for South Loop District Traffic Study - Approve

Requested Action: Approve a contract with SRF Consulting to complete the South Loop District Traffic Study for an amount not to exceed \$300,000 and to authorize the Mayor and City Manager to execute the agreement between the City of Bloomington and consultant.

Councilmember Baloga asked what the consequences of not doing a traffic study at this point in time and deferring it since a considerable amount of money has been spent here already.

Traffic Engineer Kirk Roberts responded that the purpose to doing the model is to identify problem areas that are going to emerge now and in the future. The model helps identify the impacts that then go into the AUAR as a capital plan. Without the detailed model, you can't program your future improvements.

Councilmember Baloga said it is all assumption-based. Depending on the accuracy of the assumptions at this time, we could be spending this money multiple times over the next 20 years while south loop builds out. Asked if now is the right time to make that expenditure.

Roberts said the model has been put off for as long as possible. There are some assumptions, but the traffic counts need to be updated, which is part of the cost. That is put into the model and then projected into the future based on specific land use based on zoning. It's not based on assumptions, but more based more on what the City has planned and what zoning dictates. You need the output of the model to program the capital expenditures.

Community Development Director Larry Lee explained there are thresholds for either environmental assessment or environmental impact statements for large developmensts. The responsibility falls to the developer. Overall it's less expensive for us to do common study than to do individual studies by individual developers. Developers pay a surcharge that pays for their share of the area-wide study being done. With the size of developments we are still getting, MOA Phase III for example, it is still an advantage in terms of encouraging development and cost.

Motion by Councilmember Baloga.
Seconded by Councilmember Oleson.
Motion carried 7-0.

3.14 Stipulation of Commissioners Award Normandale Blvd. Project Adopt Resolution

Requested Action: Adopt the resolution approving stipulation of commissioners award for the Normandale Boulevard project.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.

3.15 Cemetery Columbaria Addition-Award Bid

Requested Action: Award bid to Meisinger Construction Company, Inc. in the amount of \$138,000.00 plus a 10% contingency in the amount of \$13,800.00 for a total not-to-exceed amount of \$151,800.00.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.

3.16 2014 Cable TV Education Access Contract

Requested Action: Approve the contract with Independent School District #271 for educational cable access services.

- Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.17 Approve Plans & Specs 2016-102 PMP Street Maintenance Project** Requested Action: Approve the plans and specifications for the 2016-102 PMP Street Maintenance Project.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.18 Approve Plans & Specs 2016-101 PMP Street Improvement Project** Requested Action: Adopt a resolution approving the plans and specifications for the 2016-101 PMP Street Improvement Project.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.19 Support Amendment 1 ROW Agreement with Hennepin County 2016-201 Project Adopt Resolution** Requested Action: Adopt the resolution and approve Amendment 1 of the ROW acquisition agreement for the Normandale Blvd (CSAH 34) Reconstruction Project (City Project 2016-201).

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.20 Nuisance Abatement- Approve Award** Requested Action: Approve a contract with Universal Cleaning Services, Inc. for Public Health Nuisance Abatement Services as needed through December 31, 2017 with a not-to-exceed annual amount of \$100,000.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.21 2015 Year-end Carryover Budget** Requested Action: Approve the re-appropriation of the 2015 budgeted expenditures into 2016.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.22 Two Tandem Axle Cab & Chassis- Approve Purchase** Requested Action: Approve the purchase of two 2016 Freightliner cab/chassis from Istate Truck Center under the State of Minnesota Contract #77936 for a total cost of \$219,456.00.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.23 2016 Medica Master Group Contract** Requested Action: Approve the 2016 Medica Master Group Contract.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.
Motion carried 7-0.
- 3.24 2015 Budget Adjustment Minnesota Task Force 1 State Structural Collapse** Requested Action: Approve this budget adjustment.

Motion by Councilmember Lowman.
Seconded by Councilmember Abrams.

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| Grant | <u>Motion carried 7-0.</u> |
| 3.25 Accept Donations | <p><u>Requested Action:</u> Accept donation from the Bloomington Women's Federated Club to the Bloomington Police Department in the amount of \$200.</p> <p><u>Motion by Councilmember Lowman.</u>
 <u>Seconded Councilmember Baloga.</u>
 <u>Motion carried 7-0.</u></p> |
| 3.26 Amend March 2016 Council Meeting Calendar | <p><u>Requested Action:</u> Adopt a resolution amending the March 2016 City Council meeting calendar to cancel the March 7, 2016 meeting.</p> <p><u>Motion by Councilmember Lowman.</u>
 <u>Seconded by Councilmember Abrams.</u>
 <u>Motion carried 7-0.</u></p> |
| 3.27 2016 Legislative Policy | <p><u>Requested Action:</u> Adopt 2016 Legislative Policy.</p> <p>Councilmember Lowman explained there is a legislative policy that's been put together focusing on several items that Council are looking to to try to move forward, especially around transportation, lodging sales taxes, funding for the city, bonding, and infrastructure.</p> <p><u>Motion by Councilmember Lowman.</u>
 <u>Seconded by Councilmember Abrams.</u>
 <u>Motion carried 7-0.</u></p> |
| 3.28 Design Service Contract East Bush Lake Road at I-494 Westbound On-ramp | <p><u>Requested Action:</u> Approve Professional Design Service Contract with TKDA for 2015-201 Westbound On-ramp to I-494 at East Bush Lake Road, in the not to exceed amount of \$802,990.00, which includes a 15% contingency, base cost for design is \$702,600.00</p> <p><u>Motion by Councilmember Lowman.</u>
 <u>Seconded by Councilmember Abrams.</u>
 <u>Motion carried 7-0.</u></p> |
| 3.29 MN Department of Public Safety Budget Adjustment | <p><u>Requested Action:</u> Approve this budget adjustment.</p> <p><u>Motion by Councilmember Lowman.</u>
 <u>Seconded by Councilmember Abrams.</u>
 <u>Motion carried 7-0.</u></p> |
| 4 PUBLIC COMMENT PERIOD | The Mayor declared the Public Comment Period open for those wishing to address the Council. |
| 4.1 Response to Prior Meeting's Public Comments | None |
| 4.2 Public Comment | |
| 5 LICENSING DIVISION: PUBLIC HEARINGS | |
| 5.1 Rental License Denial Appeal 8402, 8414 and 8422 22nd Avenue South | <p><u>Requested Action:</u> Approve either, the resolution granting rental licenses with conditions or the resolution denying the rental license applications based on the staff-prepared findings of fact and conclusions of law, for 8402, 8414 and 8422 22nd Avenue South, Bloomington.</p> |

Environmental Lynn Moore explained the history of the item.

Rental license applicant, Craig Rheame of Compass Rose Real Estate LLC and North By Northwest Properties requested a public hearing before the City Council to appeal the denial of rental licenses for 8402, 8414 and 8422 22nd Avenue South, Bloomington (three townhome dwellings) per City Code Section 14.578. City staff denied the issuance of the licenses for renting to more than one family or four unrelated persons as required by City Code Section 14.577 (a) and (b) following several meetings, inspections, telephone conversations and emails with the applicant and his attorney, which are further detailed in the attached September 22, 2015 staff report. Under City Code Section 14.578 Denial of License, the City Council will affirm, modify, or reverse the decision and state the reason for such action. At the September 28, 2015 City Council Meeting, the Council held a public hearing and directed staff to engage the Minnesota Office of Administrative Hearings to conduct a findings of fact hearing and make written recommendations for City Council discussion at a future meeting. This hearing was held at Civic Plaza on November 23, 2015. Based on the evidence in the hearing record, Administrative Law Judge Perry Wilson recommended granting rental licenses to 8402, 8414 and 8422 22nd Avenue South for operating in compliance with the occupancy limits set forth in Bloomington City Code Section 14.557(b) as of the hearing date.

At the January 25, 2016 City Council meeting, Council directed Staff to draft two resolutions for Council consideration at the February 22, 2016 City Council Meeting. One resolution granting the rental licenses with conditions and the other resolution denying the rental license applications based on staff findings of fact and conclusions of law.

City Attorney Sandra Johnson explained several items from the Findings of Fact with citations from the record. Transient housing was one of these findings. Johnson added that the record is closed so we cannot take new testimony or facts, but we can hear argument on the facts.

Speaker Richard Glassman addressed the Council on behalf of the applicant. Glassman presented the point of view of the property owner and discussed the history of this applicant's process in leasing at these locations. Explained this is not transient housing and the residents at the locations are all in the airline industry and the applicant has leases for each of the residents. Ask Council to issue licenses and let the applicant be a landlord in the city.

Councilmember Carlson asked what his response that this is not the primary residence and that this is transient housing with a 1-2 night stay. Lease is saying one thing but practice is saying another. Glassman explained that lease is signed and are in the property for a set period of time per the lease.

Mayor Winstead asked about prior to the City becoming engaged in this, if there was the 60 days leases in place at that time. Glassman said it started as soon as it became a requirement by the City.

Motion by Councilmember Baloga to adopt resolution of denial, having met the findings.

Seconded by Councilmember Abrams.

Councilmember Lowman asked about the number of beds in terms of how that plays a role in this. In other parts of the city, or in other cities, how that is enforced, from a legal standpoint. Moore explained the housing inspection process, looking at the number of beds as an indicator for potential for overcrowding.

Councilmember Lowman asked if that is standard across other cities, or are there other ways of looking at what may be considered unusual. Asked if the conclusion would be different if the beds were removed out of the units at some point in the process.

City Attorney Johnson reiterated the ALJ findings, that the properties were operated as transient housing. Concern is that if you approve the business model, you cannot approve it for a particular industry.

Councilmember Oleson said the concept is understandable, but as this has evolved, there are too many loose ends.

Motion of resolution of denial carried 6-1, Councilmember Lowman opposed.

**Closed Public
Comment Period**

Mayor Winstead asked if anyone else wished to address the Council on any matter not on tonight's agenda. No one came forward so the Public Comment Period was closed at 8:04pm.

**6 DEVELOPMENT
BUSINESS: PUBLIC
HEARINGS**

**7 TRANSPORTATION &
UTILITY
IMPROVEMENTS:
PUBLIC HEARINGS**

**7.1 Accept Petition; Order
Hydrant Project; 301 W.
90th St.**

Requested Action: Adopt a resolution declaring the adequacy of the petition, ordering improvements, approving plans and specifications, and ordering advertisement of bids (2016-103 301 West 90th Street Hydrant Improvement Project).

Public Works Director Karl Keel estimated the cost of \$21,900. This does not fall under assessments under Pavement Management, but the project will be bid as part of it, and will be paid for by developer.

Motion by Councilmember Abrams.
Seconded Councilmember Baloga.
Motion carried 7-0.

**8 ORDINANCES: PUBLIC
HEARINGS**

**8.1 Special Events
Ordinance Update**

Requested Action: Move to adopt the Ordinance to amend Chapters 14, 19, and 21 of the City Code, special events standards.

Planning Manager Markegard explained the changes via powerpoint presentation. The proposal would use the public assembly permit throughout the entire city, getting rid of the interim use permit process.

1. Update City Code to allow special events in all zoning districts and establishing time limits for public assemblies.
2. Create a 45-day time limit for all special events with City Council ability to extend.
3. Special events are not listed as uses, so need to be consistent. Treat as permitted uses. This is a two phase plan.

Motion by Councilmember Baloga.
Seconded by Councilmember Abrams.
Motion carried 7-0.

**8.1.1 Resolution Directing
Summary Publication
Special Events**

Requested Action: Move to adopt resolution authorizing summary publication of the ordinance.

Motion by Councilmember Baloga.

Seconded by Councilmember Abrams.

Motion carried 7-0.

**8.2 CenterPoint Energy
Franchise Agreement
Ordinance Amendment**

Requested Action: Adopt an Ordinance amending CenterPoint Energy's franchise agreement to provide energy services within the City.

Finance CFO Lori Economy-Scholler explained the project via powerpoint presentation.

On November 16, 2015, the Council adopted an Ordinance allowing a Franchise Agreement with CenterPoint Energy. The Council is now being asked to adopt an Ordinance amending the Ordinance adopted on November 16. After further review of the Franchise Agreement by CenterPoint Energy, they asked for minor language changes to the Agreement.

These changes have no impact on the Franchise Fee Ordinance or the timing of the franchise fee implementation.

Motion by Councilmember Abrams to adopt Ordinance that amends Centerpoint Energy Franchise Agreement with the City so that it can serve within the city.

Seconded by Councilmember Baloga.

Councilmember Busse stated he will vote in opposition to this, consistent with his earlier votes.

Speaker Shane Jones, Area Manager at Centerpoint Energy, thanked the City for their partnership and relationship over the past 60 years.

Motion carried 6-1. Councilmember Busse opposed.

**8.2.1 Resolution Directing
Summary Publication
Franchise Agreement
Amendment**

Requested Action: Adopt resolution authorizing summary publication of the ordinance.

Summary of publication – Councilmember Abrams moved to provide republication.

Councilmember Baloga seconded resolution of summary of publication.

Motion carried 7-0.

**9 OTHER: PUBLIC
HEARINGS**

**10 ORGANIZATIONAL
BUSINESS**

**10.1 City Council Policy &
Issue Updates**

Requested Action: City Manager Verbrugge mentioned the Home Improvement Fair held on February 20th. Acknowledged the work done by staff and thanked the many partners and vendors. Stated that this provides a resource to residents to reinvest in their Bloomington properties.

Verbrugge mentioned the Diamond Service Awards held on February 21st, recognizing the people that make Bloomington's service industry successful.

Verbrugge discussed an incident on 35W on Saturday February 20th that required rerouting after a truck struck the bridge at 86th and 35W that did significant damage.

Public Works Director Karl Keel explained the event that occurred, stating a backhoe being carried by a lowboy and was too high and hit the bridge. There was damage to the north and south side of the bridge. MnDOT responded to the incident, made an initial assessment to close the bridge. Reopened 35W traffic shortly thereafter. Structural analysis currently being done by MnDOT. Because of an incident 18 months ago, MnDOT was planning to make repairs to this bridge this summer. Reevaluating the repairs. A 10" gas main was hit and ruptured. Plan to relocate the main to under the bridge. Bridge is open to pedestrian and bicycle traffic, but the majority of bridge will be closed until a date to be determined.

Councilmember Busse asked if the driver would be liable and if there would be consequences. Keel said there will likely be claims but does not know exactly how that will happen.

Keel said there are state standards for bridges in outstate areas that must be 16' clearance. In metro, must be somewhere between 14'-16', but must provide a path through metro that has 16' clearance.

Centerpoint Energy representative Shane Jones said nobody lost gas service during this incident.

Councilmember Lowman said he has appreciated the quick response by City Manager Verbrugge in keeping Council abreast with events that occur in the community.

11 ADJOURN

Mayor Winstead adjourned at 8:26pm.

Denise Dargan
Council Secretary